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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

17 CR 630-5 (ER)
Telephone Conference

5 KARL SEBASTIAN GREENWOOD,

6 Defendant.

7 -----x

8 New York, N.Y.
9 August 7, 2020
9:06 a.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13 APPEARANCES VIA TELEPHONE

14 AUDREY STRAUSS,

15 Acting United States Attorney for the
Southern District of New York

16 NICHOLAS FOLLY

CHRISTOPHER J. DIMASE

17 Assistant United States Attorneys

18 BARKET EPSTEIN KEARON ALDEA & LO TURCO, LLP

Attorneys for Defendant

19 BY: BRUCE A. BARKET

ALEXANDER R. KLEIN

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(The Court and all parties appearing telephonically)

THE COURT: Good morning, everyone. This is Judge Ramos.

Jazmine, please call the case.

(Case called)

MR. FOLLY: Good morning, your Honor. This is Nicholas Folly on behalf of the government. I'm also joined by AUSA Christopher Dimase.

THE COURT: Good morning.

MR. BARKET: Good morning, your Honor. This is Bruce Barket for Mr. Greenwood. Joining me, as his counsel, is Alexander Klein, and I believe Mr. Greenwood is on the call as well.

THE COURT: Good morning.

Mr. Greenwood, can you confirm that you're on the call?

THE DEFENDANT: Yes, good morning. This is Mr. Greenwood on the phone. Thank you.

THE COURT: Good morning to you.

This matter is on for a status conference, but for the record, I note that it is being conducted remotely and by telephone as a result of the pandemic. We are being assisted by a court reporter; so when you speak, please do state your name and speak slowly and clearly so we can all understand you and particularly the court reporter.

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1 Before we get going, Mr. Greenwood, I just want to
2 confirm with you that you understand that you have a right to
3 be present in court for this proceeding. Do you understand
4 that?

5 THE DEFENDANT: Yes.

6 THE COURT: And have you confirmed or have you
7 discussed with your lawyer your right to be present for this
8 proceeding?

9 THE DEFENDANT: Yes, I have.

10 THE COURT: And do you waive your right to be present
11 for this proceeding?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: And, Mr. Barket, will you confirm for me
14 that you have discussed this issue with your client and that he
15 does waive his right to be present for this proceeding?

16 MR. BARKET: This is Bruce Barket. Yes, Judge.

17 THE COURT: Very well.

18 Mr. Folly or Mr. Dimase, tell me where we are.

19 MR. FOLLY: Yes, good morning, your Honor. This is
20 Nicholas Folly. Since the parties last appeared, there has
21 been some turnover with the defendant's representation in this
22 case. He has retained new counsel a number of times and most
23 recently retained new counsel at the end of May of this year.

24 His new counsel has only had a couple of months on the
25 case at this point, and we have produced a subset of discovery

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1 to Mr. Barket and Mr. Klein. We have had some discussions with
2 defense counsel, both current and former, about a potential
3 pretrial resolution of this case. However, in light of some of
4 the current circumstances, particularly with respect to
5 attorney visits, it has simply not been a sufficient amount of
6 time for Mr. Barket and Mr. Klein to fully discuss this case
7 with Mr. Greenwood and adequately review the discovery that
8 they have and discuss his options at this stage.

9 As we understand it, he is evaluating whether to move
10 forward with this case in a sort of potential trial posture or
11 to move forward with some sort of pretrial resolution of the
12 case.

13 From the government's perspective, and we've discussed
14 this a little bit with defense counsel, at this stage, I
15 believe it would make sense to hold off on setting any
16 deadlines for motion practice or the completion of discovery,
17 at least for now, and to come back for another conference
18 within the next month or two to revisit the status of the case
19 and proceed from there at that time.

20 THE COURT: Very well. Mr. Barket?

21 MR. BARKET: This is Bruce Barket. I agree with the
22 government in this instance.

23 I'll add that the method by which we are able to
24 communicate with our client, while we appreciate all the work
25 that's being done by various parties, including apparently the

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1 federal public defenders in coordinating this, it is woefully
2 inadequate, especially to confer with somebody on a case as
3 complex like this.

4 We get an about an hour once every ten days or so,
5 sometimes a little bit longer. This week, and I don't know why
6 but I certainly do appreciate it, we were able to get Wednesday
7 for an hour and a half and yesterday for an hour and a half; so
8 we got a total of 180 minutes over two days and made some real
9 progress. But this has been painstakingly slow.

10 If we had the ability to visit our client, i.e. going
11 to the jail, like the guards do every day, we would spend hours
12 with him over a very short amount of time to get up to speed on
13 this. It's a \$15 billion alleged scheme, international
14 crypto-currency with a huge amount of discovery and a great
15 deal of information available, frankly, on the internet about
16 One Coin, all which needs to be reviewed by us and then
17 discussed with our client, who the government has alleged is
18 one of the key participants in the alleged fraud.

19 So I certainly agree that we need more time before we
20 can move forward with any deadlines, but I did want to note
21 that the way the system is currently set up, which is
22 prohibiting us from seeing our client at the facility and
23 limiting us to having to ask for video conferences, which
24 usually take about ten days to set up, is really not sufficient
25 and it's not, I don't think, sustainable over the course of --

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1 for very much longer. It's been this way since May and,
2 obviously, for several months before that although we weren't
3 representing Mr. Greenwood at that time.

4 THE COURT: Can I ask you, Mr. Barket, where is
5 Mr. Greenwood being held?

6 MR. BARKET: At MCC, your Honor.

7 THE COURT: In Manhattan?

8 MR. BARKET: Yes.

9 THE COURT: Okay. Well, I certainly appreciate not
10 only the complexity of this case but the obstacles that you
11 have in communicating with your client as a result of the
12 pandemic. I mean, I will say this. The efforts that are being
13 undertaken by the BOP, you know, have served to maintain a
14 level of safety that has resulted in both the MCC and the MDC
15 having rather good results in terms of the spread of the
16 pandemic or the Covid.

17 So it's a difficult situation, I understand, and, you
18 know, I will do whatever I can to facilitate your ability to
19 communicate with your lawyer. But these are difficult times,
20 unfortunately.

21 So we should come back in about two months, Mr. Folly?

22 MR. FOLLY: Yes, your Honor. That would make sense to
23 the government.

24 THE COURT: Mr. Barket?

25 MR. BARKET: (Indiscernible)

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1 THE COURT: Okay. Mr. Barket, you were breaking up.
2 I understood you to say you have no objection to that, correct?

3 MR. BARKET: That's correct, Judge.

4 THE COURT: Okay. So, Ms. Rivera, will you give us a
5 time in early October?

6 THE DEPUTY CLERK: Yes. October 5 at 11:00 a.m.

7 THE COURT: Okay. In the meantime, Mr. Barket, have
8 you received all of the discovery in this case?

9 MR. BARKET: Excuse me. I've received the entire file
10 from prior counsel and some additional discovery from the
11 government. I'm assuming that's all but --

12 THE COURT: Okay. Mr. Folly, can you confirm that all
13 of the discovery that the government has has been turned over
14 to Mr. Barket?

15 MR. FOLLY: Your Honor, at this stage, we have not
16 turned over all of the discovery primarily because of the
17 ongoing discussions about a pretrial resolution.

18 We have focused on providing to defense counsel what
19 we believe is some of the most pertinent and inculpatory
20 portions of that discovery, including some of the defendant's
21 e-mails and other such communications that demonstrate his
22 knowledge and participation in this fraud scheme, as well as
23 his conception from the very beginning of the fraud scheme.

24 We would be happy to have a discussion with defense
25 counsel and then come back to the Court with a proposed

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1 discovery schedule, if that makes sense with defense counsel as
2 well.

3 THE COURT: Mr. Barket?

4 MR. BARKET: That is fine with us. Frankly, I mean,
5 we've not gotten very far in going through the discovery we
6 have because of the difficulties in consulting with my client.
7 That isn't say we haven't had the ability to read it.
8 Obviously, we have.

9 But the second step, which is fairly important, to
10 discuss it and go over it in detail with Mr. Greenwood is --
11 we're a long way from completing what we have.

12 THE COURT: Okay. Well, I would encourage you, the
13 parties, to have discussions about what has not been turned
14 over and what Mr. Barket may determine to be useful for his
15 discussions with Mr. Greenwood.

16 Is there anything else that we need to do today,
17 Mr. Folly?

18 MR. FOLLY: Your Honor, the government would move for
19 the exclusion of time in the interests of justice from today
20 through October 5th so that defense counsel has sufficient time
21 to continue reviewing discovery, and also so that the parties
22 can continue to discuss a pretrial resolution in this case.

23 THE COURT: Mr. Barket?

24 MR. BARKET: I agree, Judge. We would not object to
25 the exclusion of time.

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1 THE COURT: Very well. I will exclude the time
2 between now and October 5 under the Speedy Trial Act. I find
3 that Mr. Greenwood's interests in continuing his discussions
4 with Mr. Barket and his other lawyers and reviewing the
5 discovery and discussing a pretrial disposition outweigh the
6 interests of the public and the defendant in a speedy and
7 public trial; so that time will be excluded.

8 Is there anything else that you wanted to raise,
9 Mr. Barket?

10 MR. BARKET: No. Thank you, your Honor.

11 THE COURT: Mr. Folly?

12 MR. FOLLY: No, your Honor.

13 THE COURT: In that event, we are adjourned.
14 Everyone, please stay well.

15 MR. BARKET: You too.

16 MR. FOLLY: Thank you, Judge.

17 (Adjourned)